

ACCOUNTANCY EXAMINING BOARD[193A]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542.4, the Accountancy Examining Board (Board) hereby gives Notice of Intended Action to amend Chapter 3, “Certification of CPAs”; to rescind Chapter 13, “Rules of Professional Ethics and Conduct,” and to adopt a new Chapter 13 with the same title; and to amend Chapter 14, “Disciplinary Authority and Grounds for Discipline,” Iowa Administrative Code.

The proposed amendments fully adopt the Code of Professional Conduct of the American Institute of Certified Public Accountants (AICPA), effective August 31, 2016, by reference and eliminate redundant, inconsistent, or incompatible rules in light of said adoption. However, several supplemental rules are retained, such as governing the manner in which licensees are to interact with the Board, describing information licensees are required to disclose to the Board, and rules related to continuing education. The proposed amendments reflect partial compliance with Iowa Code section 17A.7(2), which states that beginning July 1, 2012, over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules. The goal of the review is to identify and eliminate all rules that are outdated, redundant, or inconsistent or incompatible with statute or the agency’s rules or the rules of other agencies.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before May 2, 2017. Comments should be directed to Robert Lampe, Executive Officer, Iowa Accountancy Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309; by telephone at (515)725-9024; or by e-mail to robert.lampe@iowa.gov.

A public hearing will be held at 8:30 a.m. on Tuesday, May 2, 2017, at the offices of the Professional Licensing and Regulation Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Board to discuss specific needs.

There is no fiscal impact. No current fees are being changed, and no new fees are being imposed.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These amendments were approved at the December 14, 2016, regular meeting of the Board.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 542.4.

The following amendments are proposed.

ITEM 1. Amend rule 193A—3.15(542) as follows:

193A—3.15(542) Use of title.

3.15(1) No change.

3.15(2) Rules regarding the use of the title “CPA” in a firm name are found at ~~193A—subrule 13.4(14)~~ in the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

ITEM 2. Rescind 193A—Chapter 13 and adopt the following new chapter in lieu thereof:

CHAPTER 13

RULES OF PROFESSIONAL ETHICS AND CONDUCT

193A—13.1(542) Applicability.

13.1(1) The rules of professional ethics and conduct, both adopted by reference in subrule 13.1(2) and specifically enumerated herein (collectively referred to herein as the “rules of professional ethics and conduct”), rest upon the premise that the reliance of the public in general and of the business community in particular on sound financial reporting and on the implication of professional competence inherent in the authorized use of a legally restricted title relating to the practice of public accountancy imposes on persons engaged in such practice certain obligations both to their clients and to the public. These obligations, which the rules of professional ethics and conduct are intended to enforce where necessary, include the obligation to maintain independence of thought and action and a continued commitment to learning and professional improvement, to observe applicable generally accepted accounting principles and generally accepted auditing standards, to promote the public interest through sound and informative financial reporting, to hold the affairs of clients in confidence, and to maintain high standards of personal conduct in all professional activities in whatever capacity performed.

13.1(2) In addition to the rules specifically enumerated herein, and only to the extent applicable to certificate holders’ and licensees’ respective scope of practice, all certificate holders and licensees shall comply with the Code of Professional Conduct of the AICPA (AICPA Code of Professional Conduct), effective December 15, 2014, as updated for all official releases through October 31, 2016, and adopted by reference herein. In the event of a conflict or inconsistency between the AICPA Code of Professional Conduct and rules specifically enumerated herein, the rules specifically enumerated herein shall prevail.

13.1(3) The rules of professional ethics and conduct apply to all professional services performed by all CPAs and LPAs whether or not they are engaged in the practice of public accountancy, except where the wording of a rule clearly indicates that the applicability is specifically limited to the practice of public accountancy.

13.1(4) A CPA or LPA who is engaged in the practice of public accountancy outside the United States will not be subject to discipline by the board for departing, with respect to such foreign practice, from any of the board’s rules of professional ethics and conduct, so long as the CPA’s or LPA’s conduct is in accordance with the standards of professional conduct applicable to the practice of public accountancy in the country in which the CPA or LPA is practicing. However, even in such a case, if a CPA’s or LPA’s name is associated with financial statements in such manner as to imply that the CPA or LPA is acting as an independent public accountant and under circumstances that would entitle the reader of the financial statement to assume that United States practices are followed, CPA or LPA will be expected to comply with applicable generally accepted engagement standards and applicable generally accepted accounting principles.

13.1(5) A CPA or LPA may be held responsible for compliance with the rules of professional ethics and conduct by all persons associated with the accountant in the practice of public accounting who are either under the accountant’s supervision or are licensees, partners or shareholders in the accountant’s practice.

13.1(6) CPAs and CPA firms exercising a practice privilege in Iowa or for a client with a home office in Iowa are subject to the professional standards set forth in this chapter.

13.1(7) These rules complement the grounds for discipline set out in 193A—Chapter 14.

193A—13.2(542) Rules applicable to all CPAs and LPAs.

13.2(1) *Cooperation with board inquiry.* A CPA or LPA shall, when requested, respond to communications from the board within 30 days of the mailing of such communications by certified mail.

13.2(2) *Reporting convictions, judgments, and disciplinary actions.* In addition to any other reporting requirement in Iowa Code chapter 542 or these rules, a CPA or LPA shall notify the board within 30 days of:

a. Imposition upon the CPA or LPA of discipline including, but not limited to, censure, reprimand, sanction, probation, civil penalty, fine, consent decree or order, or suspension, revocation or modification of a license, certificate, permit or practice rights by:

(1) The SEC, PCAOB, or IRS (by the Director of Practice); or

(2) Another state board of accountancy for cause other than failure to pay a professional fee by the due date or failure to meet the continuing education requirements of another state board of accountancy; or

(3) Any other federal or state agency regarding the CPA's or LPA's conduct while rendering professional services; or

(4) Any foreign authority or credentialing body that regulates the practice of accountancy;

b. Occurrence of any matter that must be reported by the CPA or LPA to the PCAOB pursuant to Sarbanes-Oxley Section 102(b)(2)(f) and PCAOB rules and forms adopted pursuant thereto;

c. Any judgment, award or settlement of a civil action or arbitration proceeding in which the CPA or LPA was a party if the matter included allegations of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice of accounting; provided, however, licensed firms shall notify the board regarding civil judgments, settlements or arbitration awards directly involving the firm's practice of public accounting in this state; or

d. Criminal charges, deferred prosecution or conviction or plea of no contest to which the CPA or LPA is a defendant if the crime is:

(1) Any felony under the laws of the United States or any state of the United States or any foreign jurisdiction; or

(2) Any crime, including a misdemeanor, if an essential element of the offense is dishonesty, deceit or fraud, as more fully described in Iowa Code section 542.5(2).

13.2(3) *Firm's duty to report.* The CPA or LPA designated by each firm as responsible for the proper licensure of the firm or registration of an office of the firm shall report any matter reportable under this rule to which a nonlicensee owner with a principal place of business in this state is a party.

13.2(4) *Solicitation or disclosure of CPA examination questions and answers.* A CPA or LPA who solicits or knowingly discloses a Uniform CPA Examination question(s) or answer(s) without the written authorization of the AICPA shall be considered to have committed an act discreditable to the profession.

13.2(5) *Falsely reporting continuing professional education (CPE).* A CPA or LPA shall be considered to have committed an act discreditable to the profession when the CPA or LPA falsely reports CPE credits during the CPA's or LPA's required reporting renewal or board CPE audit.

13.2(6) *Mandatory ethics continuing professional education.* Every CPA certificate holder or LPA license holder shall complete a minimum of four hours of continuing professional education devoted to ethics and rules of professional conduct during the three-year period ending December 31 or June 30, prior to the July 1 annual renewal date. This requirement is more fully described in 193A—subrule 10.7(2).

193A—13.3(542) Rules applicable to CPAs and LPAs who use the titles in offering or rendering products or services to clients.

13.3(1) *Use of title.*

a. *Certified public accountant.* Only a person who holds an active, unexpired certificate and who complies with the requirements of 193A—Chapter 5, Licensure Status and Renewal of Certificates and Licenses, and 193A—Chapter 10, Continuing Education, or a person lawfully exercising a practice privilege under Iowa Code section 542.20 may use or assume the title “certified public accountant” or the abbreviation “CPA” or any other title, designation, word(s), letter(s), abbreviation(s), sign, card, or device tending to indicate that such person is a certified public accountant.

b. *Licensed public accountant.* Only a person holding a license as a licensed public accountant shall use or assume the title “licensed public accountant” or the abbreviation “LPA” or any other title, designation, word(s), letter(s), abbreviation(s), sign, card, or device tending to indicate that such person is a licensed public accountant.

13.3(2) *Forms of practice.*

a. *Certified public accountant firms.* A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization shall apply for a permit to practice under Iowa Code section 542.7 and these rules as a firm of certified public accountants in order to use the title “CPAs” or “CPA firm,” as more fully described in 193A—Chapter 7.

b. Licensed public accounting firms. A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization shall apply for a permit to practice under Iowa Code section 542.8 and these rules as a firm of licensed public accountants in order to use the title “LPAs” or “LPA firm,” as more fully described in 193A—Chapter 8.

13.3(3) Acting through others. A CPA or LPA shall not permit others to carry out on the CPA’s or LPA’s behalf, either with or without compensation, acts which, if carried out by the CPA or LPA, would violate the rules of professional ethics and conduct.

193A—13.4(542) Audit, review and other attest services.

13.4(1) Definitions.

“Attest” or “attest service” means providing any of the following services:

1. An audit or other engagement to be performed in accordance with the statements on auditing standards.
2. A review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.
3. Any engagement to be performed in accordance with the statements on standards for attestation engagements.
4. Any engagement to be performed in accordance with the auditing standards of the PCAOB.

The standards specified in the definition of “attest” are those standards adopted by the board, by rule, by reference to the standards developed for general application by the AICPA, the PCAOB, or other recognized national accountancy organization.

“Attest engagement team” means the team of individuals participating in attest service, including those who perform concurring or second partner reviews. The “attest engagement team” includes all employees and contractors retained by the firm who participate in attest service, irrespective of their functional classification.

“Audit” means the procedures performed in accordance with applicable auditing standards for the purpose of expressing or disclaiming an opinion on the fairness with which the historical financial or other information is presented in conformity with generally accepted accounting principles, another comprehensive basis of accounting, or basis of accounting described in the report.

“Review” means to perform inquiry and analytical procedures that permit a CPA to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

13.4(2) Practice privilege. All audit, review, and other attest services performed in Iowa or for a client with a home office in Iowa must be performed through a CPA firm that holds an active Iowa firm permit to practice; provided that, an out-of-state CPA firm exercising a practice privilege may perform review services in Iowa or for a client with a home office in Iowa without first obtaining a firm permit to practice in Iowa as long as the firm complies with Iowa Code sections 542.20(5) and 542.20(6) and associated rules. Unless Iowa certification is specifically required by a governmental body or client, the individual CPAs performing such attest services may either hold an active Iowa CPA certificate or exercise a practice privilege as more fully described in Iowa Code section 542.20. LPAs and LPA firms are not authorized to perform attest services.

13.4(3) Peer review required. As a condition of renewal of a permit to practice as a CPA firm, the firm shall undergo, at least once every three years, a peer review conducted under the provisions outlined in 193A—Chapter 11 and Iowa Code section 542.7.

193A—13.5(542) Compilation.

13.5(1) Who can perform. Only a CPA licensed under Iowa Code section 542.6 or 542.19, an LPA licensed under Iowa Code section 542.8, or a CPA exercising a practice privilege under Iowa Code section 542.20 shall issue a report in standard form upon a compilation of financial information or

otherwise provide compilation services in Iowa or for a client with a home office in Iowa. (Refer to rule 193A—6.4(542).)

13.5(2) Peer review. All individuals described in 193A—subrule 6.4(1) shall satisfy peer review requirements, individually or through a peer review of a CPA or LPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or 542.8 or a CPA firm exercising a practice privilege under Iowa Code section 542.20.

13.5(3) Mandatory financial statement presentation continuing professional education. In each renewal period in which compilation reports are issued, every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on the financial statements on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of eight hours of continuing education devoted to financial statement presentation every three years, such as courses covering the Statements on Standards for Accounting and Review Services (SSARS) and accounting and auditing updates. This requirement is more fully described in 193A—subrule 10.7(1).

193A—13.6(542) Rules applicable to tax practice. CPAs, LPAs, and persons who are not CPAs or LPAs may perform tax services in Iowa. The rules of professional ethics and conduct in this chapter shall apply to any CPA or LPA who is licensed in Iowa and to any CPA exercising a practice privilege in Iowa whenever such person informs the client or prospective client that the person is a CPA or LPA. Clients may be so informed in a number of ways, including oral or written representations, the display of a CPA certificate or LPA license, or use of the CPA or LPA title in advertising, telephone or Internet directories, letterhead, business cards or e-mail. Clients and prospective clients who select a tax professional holding oneself out as a CPA or LPA have the right to expect compliance with these rules.

These rules are intended to implement Iowa Code chapters 272C and 542.

ITEM 3. Amend paragraph **14.3(2)“e”** as follows:

e. A willful, repeated, or material deviation from generally accepted engagement standards, generally accepted accounting standards, generally accepted auditing standards, or any other nationally recognized standard applicable to the public accounting services at issue, ~~as provided in rule 193A—13.4(542).~~

ITEM 4. Amend paragraph **14.3(4)“b”** as follows:

b. A violation of a rule of professional conduct relating to improper conflicts of interest, or lack of integrity, objectivity or independence, as provided in ~~rule 193A—13.3(542)~~ the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

ITEM 5. Amend paragraph **14.3(7)“a”** as follows:

a. Violation of a generally accepted engagement standard, generally accepted accounting standard, generally accepted auditing standard, or any other nationally recognized standard applicable to the public accounting services at issue, as provided in rule 193A—13.4(542), or any other violation of a provision of ~~193A—Chapter 13~~ the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

ITEM 6. Amend paragraph **14.3(9)“g”** as follows:

g. Failure to report as provided in ~~193A—subrules 13.6(7) and 13.6(8)~~ 193A—subrule 13.4(3) or as otherwise required in the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.